United Nations CRC/C/OPSC/TJK/CO/1

Convention on the Rights of the Child

Distr.: General
3 November 2017

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Tajikistan under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of Tajikistan (CRC/C/OPSC/TJK/1) at its 2228th meeting (see CRC/C/SR.2228), held on 14 September 2017, and adopted the present concluding observations at its 2251st meeting, held on 29 September 2017.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/TJK/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the combined third to fifth periodic reports submitted by the State party under the Convention (CRC/C/TJK/CO/3-5), and on the report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/TJK/CO/1), both adopted on 29 September 2017.

II. General observations

Positive aspects

4. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) The adoption of amendments to the Criminal Code introducing new offences in line with the Optional Protocol;

(b) The adoption of the Children's Rights Act (2015);

(c) The adoption of the Human Trafficking and Assistance for Trafficking Victims Act (2014);

(d) The ratification of the Agreement on Cooperation between the Ministries of Internal Affairs (Police) of the States of the Commonwealth of Independent States in Combating Trafficking in Persons (2010);

* Adopted by the Committee at its seventy-sixth session (11-29 September 2017).

GE.17-19412(E)

1719412

Please recycle

(e) The ratification of the International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182) in June 2005;

(f) The entering into an international assistance and cooperation agreement with the International Organization for Migration to, among other things, counter trafficking.

5. The Committee further notes with appreciation the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including the establishment of the Commissioner for Children's Rights in 2016 and the national plan to combat trafficking in persons in Tajikistan 2016-2018.

III. Data

Data collection

6. The Committee is concerned about the insufficient steps taken to establish a systematic mechanism of data collection, analysis and monitoring of all areas covered by the Optional Protocol.

7. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol. The data should be disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic status, with particular attention paid to children who are at risk of becoming victims of crimes under the Optional Protocol. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence and utilized for policy decisions, impact assessments and the monitoring of progress on the implementation of the Optional Protocol. In that regard, the Committee recommends that the State party seek technical support from, inter alia, the United Nations Children's Fund.**

IV. General measures of implementation

A. Legislation

8. The Committee welcomes the legislative developments in the State party, as mentioned in paragraph 4 above. The Committee is, however, concerned that the legislation of the State party does not cover all elements of offences under articles 2 and 3 of the Optional Protocol, including the sale of children — a concept that is similar, but not identical, to trafficking in children — and, in particular, the sale of children for the transfer of organs, procuring child prostitution, and possessing child pornography.

9. **The Committee recommends that the State party ensure that all offences under the Optional Protocol are fully covered under its criminal law, including all forms of the sale of children, child prostitution and child pornography.**

B. Comprehensive policy and strategy

10. The Committee is concerned that the State party has not developed a comprehensive policy and strategy on the rights of the child under the Optional Protocol.

11. **The Committee recommends that the State party develop a comprehensive policy and strategy on the rights of the child, encompassing all children and all issues covered under the Optional Protocol, allocate suitable human and financial resources for their implementation and, in doing so, take into account the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children.**

C. Coordination and evaluation

12. The Committee notes with appreciation the involvement of many entities in the implementation of the Optional Protocol, working within their fields of competence. The Committee is concerned, however, at the lack of information about the entity in charge of coordinating the implementation of the Optional Protocol.

13. **With reference to paragraph 7 of its concluding observations under the Convention, the Committee recommends that the State party ensure better coordination between the various ministries, agencies and committees working on developing and implementing child rights policies relevant to the Optional Protocol.**

D. Dissemination, awareness-raising and training

14. The Committee notes that law enforcement officials carry out awareness-raising activities on the prohibition and negative consequences of child marriages. However, the Committee regrets the limited dissemination, awareness-raising and training activities on the Optional Protocol.

15. **The Committee recommends that the State party develop and implement awareness-raising programmes, campaigns and dissemination and training activities to ensure that the provisions of the Optional Protocol are widely known by the general public, in particular parents and children, government officials and professionals working with and for children.**

E. Allocation of resources

16. The Committee is concerned about the absence of information regarding the resources allocated to implement the Optional Protocol.

17. **The Committee recommends that the State party identify budget lines for the implementation of the Optional Protocol, ensuring the allocation of adequate resources, and present information in that regard in its next periodic report to the Committee.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))

A. Measures adopted to prevent offences prohibited under the Optional Protocol

18. The Committee is seriously concerned about the insufficient measures carried out by the State party to prevent children falling victim to offences prohibited under the Optional Protocol. In particular, the Committee is concerned that:

(a) The State party lacks sufficient programmes that specifically target children in vulnerable and marginalized situations;

(b) There are insufficient mechanisms in place to identify and monitor children at risk of becoming victims to offences under the Optional Protocol;

(c) There is insufficient information on the scale of the sale of children, the exploitation of children in prostitution and pornography in the State party;

(d) There are allegations of the transport of victims across borders that are not investigated owing to corruption;

(e) Measures to identify and address the root causes and incidence of offences under the Optional Protocol remain limited.

19. **The Committee urges the State party to adopt a consistent human rights-based approach for all activities conducted, in order to prevent the occurrence and reoccurrence of offences prohibited under the Optional Protocol, and recommends that the State party:**

(a) **Adopt comprehensive and targeted protection and prevention measures and programmes for those children at risk of falling victim to offences under the Optional Protocol, including children living in poverty, children engaged in child labour, child victims of prostitution, child spouses and children living in street situations;**

(b) **Strengthen its efforts to identify, report and support children who are at risk of becoming victims, or are victims, of offences under the Optional Protocol;**

(c) **Carry out research on the nature and scale of the sale of children and the exploitation of children in prostitution and pornography;**

(d) **Adopt the necessary measures to prevent and combat corruption in cases related to offences under the Optional Protocol;**

(e) **Intensify measures to identify, analyse and effectively address the root causes of offences under the Optional Protocol.**

B. Forced labour

20. The Committee is concerned at the limited information provided to it on the measures adopted by the State party to eliminate child forced labour, particularly in the annual cotton harvest.

21. **The Committee recommends that the State party adopt appropriate measures to prevent the sale of children for the purpose of child forced labour, particularly in the agriculture sector, and that it effectively enforce the legal framework prohibiting forced labour.**

C. Measures to prevent and address online child sexual exploitation and abuse

22. The Committee notes that there are two entities in the State party responsible for addressing cybercrime. It is concerned, however, by the paucity of information provided by th2873e State party on the measures to prevent and address online child sexual exploitation and abuse, including the lack of information on awareness-raising programmes for children on the responsible use of information and communications technologies and online child sexual exploitation.

23. **The Committee recommends that the State party adopt the necessary legal and other measures to prevent and address online child sexual exploitation and abuse. It calls on the State party to ensure that the strategy focuses on awareness-raising and the education of children on the responsible use of information and communications technologies and online child sexual exploitation, and not on the punishment of children.**

D. Programmes targeting particular groups

24. The Committee regrets the insufficient information provided by the State party on efforts undertaken to prevent children becoming victims of offences under the Optional Protocol, particularly children in vulnerable situations, including Roma children (Mughat and Lyuli), as well as refugee children. The Committee is further concerned that child victims of prostitution appear to be viewed as offenders in the State party, rather than as victims, and are not targeted for prevention efforts.

25. **The Committee recommends that the State party adopt all the measures necessary to prevent and protect all groups of children in a vulnerable situation, including Roma children, migrant and refugee children, from becoming potential victims of offences under the Optional Protocol. The Committee also recommends that the State party adopt the necessary legal and other measures to avoid the criminalization of children.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

A. Existing criminal or penal laws and regulations

26. The Committee notes the provisions in the Criminal Code relevant to the Optional Protocol, but is concerned that the State party's legislation focuses overwhelmingly on the trafficking of persons, including children, for sexual purposes, while some other offences relating to the sale of children, as defined in articles 2 and 3 of the Optional Protocol, remain insufficiently addressed. The Committee is also concerned that the criminal law in the State party does not define and criminalize all forms of child pornography, including possession.

27. **The Committee recommends that the State party define and criminalize the sale of children, in conformity with articles 2 and 3 of the Optional Protocol, and that it not limit the definition to cases of trafficking in children. In particular, the State party should explicitly define and criminalize:**

(a) **The sale of children through illegal adoption;**

(b) **The transfer of organs of a child for profit;**

(c) **Forced labour by children as a form of the sale of children;**

(d) **Distributing, importing, exporting, offering, selling, possessing or knowingly accessing/viewing child pornography, including virtual child pornography, and suggestive representations of children which do not necessarily depict children engaged in explicit sexual activity.**

B. Impunity

28. The Committee is concerned about the lack of information regarding the number of cases of the sale of children, child pornography, child prostitution and related matters that are investigated and the number of perpetrators who are prosecuted and sentenced.

29. **The Committee recommends that the State party take all necessary measures to ensure that all cases of the sale of children, child prostitution and child pornography are investigated effectively and that perpetrators, including officials complicit in offences under the Optional Protocol, are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes.**

C. Extraterritorial jurisdiction and extradition

30. The Committee regrets that national legislation on extraterritorial jurisdiction does not cover all the offences under the Optional Protocol and that extradition is subject to the principle of double criminality.

31. **The Committee recommends that the State party take all necessary measures to ensure that its national legislation enables it to establish and exercise extraterritorial jurisdiction and to include in its extradition treaties the offences under the Optional Protocol, and encourages the State party to take steps to ensure that a dual**

criminality requirement is not used in cases of extradition for offences covered by the Optional Protocol. The Committee encourages the State party to consider the Optional Protocol as the basis for extradition in the absence of a treaty or an agreement.

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

32. The Committee notes the efforts of the State party in this regard, but is concerned that:

(a) Existing measures for protecting the rights and interests of child victims of offences under the Optional Protocol tend to be limited to trafficking and are thus insufficient;

(b) Law enforcement, border and immigration authorities do not have specific procedures for systematically identifying child victims at borders, or any other location, and providing them with adequate services, particularly referral and protection;

(c) Information on compensation and any other remedies for child victims of offences under the Optional Protocol are insufficient;

(d) Child victims of prostitution may be arrested and prosecuted under the Criminal Code;

(e) Child victims of offences under the Optional Protocol are not de facto capable of seeking compensation for acts committed against them owing to limited support, despite the de jure existence of provisions for such compensation.

33. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party strengthen its measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular:**

(a) **Establish mechanisms and procedures for the early identification of child victims, including unaccompanied children, of offences under the Optional Protocol and ensure that the personnel responsible for identification in such cases, including immigration officials, judges, prosecutors, the police, social workers, medical staff and other professionals working with child victims, are trained in children's rights, child protection and child-friendly interviewing skills;**

(b) **Ensure that children who are victims of offences under the Optional Protocol are not subject to treatment or sanctions for offences related to their situation and are given appropriate support;**

(c) **Guarantee the sufficient allocation of funding or in-kind support to provide comprehensive care to child victims and ensure sustainability;**

(d) **Review the relevant laws in order to target users of child victims of prostitution and recognize the legal status of children as victims;**

(e) **Ensure that complaint mechanisms are easily accessible and available to children whose rights have been violated and provide them with assistance in the investigation and prosecution of offences under the Optional Protocol.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

34. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring**

countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered by the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.

IX. Ratification of the Optional Protocol on a communications procedure

35. **The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the Optional Protocol on a communications procedure.**

X. Implementation and reporting

A. Follow-up and dissemination

36. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to members of the national parliament and to the districts for appropriate consideration and further action.**

37. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

38. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**